IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.649 OF 2004

The State of Maharashtra) ...Appellant

Versus

1. Sanjay Gopal Naik,)
87-B, Rawaji Society Chawl,)
Rambhau Bhosal Marg,)
Mumbai.)

2. Manohar Dattatraya Anant)
Tandel, 136, Balmate House,)
Worli Village, Mumbai-18.)

3. Manohar Vithoba Gaikar,)
Shariff Mahal, 1st Floor,)
Room No.487, Amrut Nagar,)
Opposite South Indian Bank,)
Mumbra, Thane.)

4. Santosh Sambhaji Gawade,)
2/3, Irana Chawl, Rm.No.48,)
G.D.Ambedkar Marg,)
Kalachowki, Mumbai.) ...Respondents

Shri A.S.Shitole, A.P.P for the Appellant.

CORAM : A. S. OKA, J.

DATE : DECEMBER 15, 2006.

JUDGMENT:

1. Heard the learned A.P.P for the Appellant in support of the prayer for grant of leave to prefer an Appeal. The acquittal of the Respondents is for offences punishable under section 324, 342, 504,

506(ii) read with section 34 of the Indian Penal Code. I have perused the impugned Judgment and Order and the notes of evidence.

2. At the material time the complainant and accused were employees of Oberoi Hotel at Mumbai. The complainant was employed as a stenographer in the said hotel. The Respondents were working in housekeeping department/store department. At the relevant time there were two rival unions of the employees of the said hotel. The complainant was a member of Akhil Bhartiya Kamgar Sena and the Respondents belonged to Bhartiya Kamgar Sena.

3. The incident allegedly took place in the basement of the said hotel on 19th June, 1998 when the complainant came to the office in the basement. At that time, he was called to the office of Bhartiya Kamgar Sena by the Respondents. The first Respondent told the complainant to put his signature on three membership receipts. When the complainant refused, the first Respondent abused him and attacked him with a stick. The right hand little finger of the complainant was injured. The complainant made attempt to get out

of the office when the fourth Respondent stopped him and the first and second Respondents made him sign three membership receipts by giving a threat to kill him. The complainant took treatment at G.T.Hospital, Mumbai for the injury sustained to his little-finger of right hand and thereafter lodged a complaint with the police.

4. The learned Trial Judge found that the complainant (P.W.1) exaggerated the alleged incident in his evidence before the court and there were number of discrepancies and infirmities in his evidence. The complainant admitted that he was an active member of Akhil Bhartiya Kamgar Sena. He stated that against his wishes contribution payable to Bhartiya Kamgar Sena was deducted from his salary for a period of 13 to 14 years.

5. It is an admitted position that on the date of the incident there was a dispute between the two unions which was pending in the Industrial Court, Mumbai. The injury sustained by the complainant was simple and superficial. The injury was a swelling on right hand little-finger.

6. Perusal of the notes of evidence shows that the complainant exaggerated his case in his evidence. Considering the rivalry between the two unions, the learned Trial Judge has drawn a conclusion that an attempt was made by the complainant to falsely implicate the Respondents. I find that the view taken by the learned Trial Judge is a possible view. No case is made out for grant of leave. Appeal is dismissed.

JUDGE